SIKKIM

GOVERNMENT GAZETTE

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LAW DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK

No. 4/LD/P/13 Dated: 25.03.2013

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 12th day of March, 2013 is hereby published for general information:-

THE SIKKIM EARTHQUAKE REHABILITATION MANAGEMENT FUND ACT, 2013

(ACT NO. 04 OF 2013)
AN
ACT

to provide fund for immediate relief, restoration and reconstruction of future earthquake and for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to create a fund for immediate relief, restoration and reconstruction of future earthquake and for such purpose to levy and collect cess on contract work and to provide for matters connected therewith or incidental thereto;

BE it enacted by the Legislature of Sikkim in the Sixty forth Year of the Republic of India as follows: -

CHAPTER-I

Preliminary

Short title extent and commencement

1. (1) This Act may be called the Sikkim Earthquake Rehabilitation Management Fund Act, 2013

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act unless the context otherwise requires:-

(a) "Cess" means the cess levied and collected under section 4;

(b) "Contractee" means any person or authority including the Central/ State Government, or any agency/ undertaking /body under such Government or a private organization, or a firm or an individual who has been awarded the work contract;

(c) "Fund" means the Sikkim Earthquake Rehabilitation Management Fund established under sub-section (1) of section 5;

(d) "Notification" means a notification published in the Official Gazette;

(e) "Prescribed" means prescribed by rules made under this Act;

(f) "State Government" means the Government of Sikkim.

(g) "Value of works contract" means total payment received or receivable against execution of work contract, including escalation, if any. However, it shall not include tax and cess leviable under any other Act enacted by the State Legislature.

(h) "Works Contract" means any work executed as per the Sikkim Public Works Code and Manual or under any other law for the time being in force within the territory of the State of Sikkim.

Chapter II

Authorities for the purpose of levy and collection of cess

Cess Authorities

3. (1) The State Government shall, by notification, appoint an authority (hereinafter referred to as the prescribed authority), and shall appoint such other person being the officers of the State Government, to assist the prescribed authority as the State Government may think fit for carrying out the purposes of this Act .

(2) The prescribed authority and the persons appointed under subsection (1) to assist him shall have jurisdiction over the whole of Sikkim.

(3) The persons appointed to assist the prescribed authority shall exercise such powers as may be delegated to them by the prescribed authority.

(4) The prescribed authority and the persons appointed to assist him under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

(5) No suit, prosecution or other legal proceeding shall lie against the prescribed authority or the persons appointed under sub-section (1) to assist him for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

CHAPER -III

Incidence and levy of cess, rate of cess and payment of cess.

4. (1) There shall be levied and collected a cess for the purposes of the Sikkim Earthquake Rehabilitation Management Fund, at such rate not exceeding two percent but not less than one percent of the cost of contract works, as the State Government may,by notification in the Official Gazette, from time to time specify.

(2)The cess levied under sub-section (1) shall be collected from every contractee in such manner and at such time, including deduction at source in relation to contract works of a Government or of a public sector undertaking or advance collection through a local authority where approval of such contract works by such local authority is required, as may be prescribed.

(3)The cess leviable under sub-section (1) shall be collected in such manner and at such time as the State Government may prescribe by notification, including deduction at source from payment made against execution of works contract by paying authority of the contractee.

(4) The amount deducted as cess at source shall be deposited to the credit of the State Government within 15 (fifteen) days after expiry of month of such deductions in such form or challan or through book adjustment, as the case may be.

(5) It such paying authority fails to deduct, or having deducted, fails to remit to the State Government the amount deducted as cess, within the stipulated time the State Government may impose penalty of such amount as the state Government may by notification specify.

Authority to collect cess

5 (1) No person other than a contractor who is liable to pay cess under this Act shall charge to any person any amount towards cess or purporting to be cess under this Act . The amount charged as cess shall not be more than the amount the contractee is liable to pay.

(2) Nothing contained in sub-section (1) shall relieve a contractee from his liability to pay the cess under this Act .

CHAPTER - IV

Sikkim Earthquake Rehabilitation and Management Fund

Establishment of Fund

6. (1) There shall be established for the purposes of this Act a fund to be called the Sikkim Earthquake Rehabilitation Management Fund.

(2)The fund shall be under the control of the State Government and shall be credited to the following:-

(a) any sum of money credited under section 7;

(b) any sum of money credited under section 8;

(c) any sum realized by the State Government in carrying out its functions under this Act or in the administration of this Act ;

(d) any fund provided by the Central Government for the creation, development, maintenance or Earthquake Rehabilitation Management.

(3) The balance to the credit of the fund shall not lapse at the end of the financial year.

Crediting of cess to the fund

7. The proceeds of the cess levied under section 4 shall first be credited to the Consolidated Fund of Sikkim and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the fund from time to time after deducting the expense of collection, for being utilized exclusively for the purpose of this Act .

Grants and loans by State Government

8. The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the fund, by way of grants or loans such sums of money as the State Government may consider necessary.

Utilisation of fund

9. The fund shall be utilized for ;

(a) relief during earthquake;

(b) restoration of assets damaged by earthquake;

(c) reconstruction of assets damaged by earthquake;

(d) the purposes of such other projects as may be prescribed.

CHAPTER - V

Management of the Fund

Maintenance of Accounts

10. The State Government shall maintain proper accounts and other relevant records in such form and in such manner, as may be prescribed.

Administration of Fund

11. The State Government shall administer the fund and take such decisions regarding relief, restoration and reconstruction of earthquake related works

CHAPTER – VI

Power to make rules

12. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing powers, such rules may provide for all or any of the matter which under any provisions of this Act are required to be prescribed, or to be provided for, by rules.

(3) E very rule made under this Act shall be laid, as soon as may be after it is made, before the Sikkim Legislative Assembly.

R.K. Purkayastha
Advisor-cum-Principal Secretary,
Law Department